

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
OXFORD DIVISION**

ROY WILMOTH, JR.

PLAINTIFF

v.

CIVIL ACTION NO. 3:20-CV-120-NBB-RP

**ALEX M. AZAR, II, in his official
capacity as Secretary of the U.S.
Department of Health and Human Services**

DEFENDANT

MOTION TO DISMISS

Alex Azar, Secretary of the United States Department of Health and Human Services, moves to dismiss this case under Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6). Plaintiff Wilmoth lacks Article III standing because he has suffered no injury-in-fact. Mr. Wilmoth's complaint concerns payment for a medical device for the period April through June 2018. While the claim was denied, the maker and lessor of the device, Novocure, Inc., was ordered to pay the charges. Thus, Mr. Wilmoth has suffered no injury and therefore lacks standing, depriving this court of subject matter jurisdiction.

In support of this motion, Defendant files an accompanying memorandum of law.

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